The Southern PATRIOT

Volume 8 | New Orleans, Louisiana, June, 1950 | No. 6

Three Supreme Court Decisions Undermine Legal Segregation

In three unanimous decisions on June 5 the U. S. Supreme Court established the legal framework within which the institution of racial segregation must eventually be outlawed.

These case were: *Henderson vs. Southern Railway; Sweatt vs. University of Texas;* and *McLaurin vs. University of Oklahoma.*

What the Court Did

1. Ruled 8 to 0 (reversing the Federal District Court of Maryland) that the Interstate Commerce Act had been violated when the Southern Railway refused to seat Elmer W. Henderson in the dining car except at a table reserved for Negroes and curtained from the other passengers. The decision, written by Justice Harold H. Burton, was based on the Interstate Commerce Act making it illegal for a railroad in interstate commerce *"to subject any particular person to any undue or unreasonable prejudice."* Justice Tom C. Clark did not participate.

2. Ruled 9 to 0 (reversing a special 3-Judge Federal District Court) that George Washington McLaurin, having been admitted to the State-supported graduate school at the University of Oklahoma, *"must receive the same treatment at the hands of the State as students of other races."* The decision, written by Chief Justice Fred M. Vinson, was based on the equal protection clause of the 14th Amendment.

3. Ruled 9 to 0 in a decision delivered by Chief Justice Vinson, reversing the Texas Court of Civil Appeals, and ordering the University of Texas to admit Heman Marion Sweatt to the Law School of the University on the grounds that the separate law school was not equal to the white school and was a violation of the equal protection afforded by the 14th Amendment.

What Does 'Same Treatment' Mean?

The decisions, viewed from a practical standpoint, were all that could be desired. Mr. Henderson henceforth will receive service in the dining car, the curtained-off Jim Crow tables will be removed. Mr. McLaurin, who complained that he was getting a stiff neck from trying to see the professors from his segregated seat in an alcove, will be seated and treated like other students. Mr. Sweatt will enter the University of Texas law school.

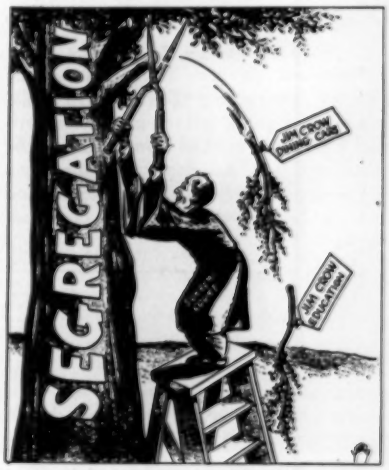
What is a disappointment, however, is that the court in all three cases failed to do what the Department of Justice in its *amicus curiae* brief has requested, namely, invalidate the 54-year-old "separate but equal" ruling in *Plessy vs. Ferguson*, and boldly declare that racial segregation is unconstitutional.

The failure of the court to rule in this manner means that each case of discrimination involving segregation must continue to be considered on its own merit. Segregation itself has not yet been judged to be illegal *per se*, but the final day of judgment on Jim Crow is certainly brought nearer.

In this connection the language of the court in the McLaurin case is especially significant. The court held that the *"Fourteenth Amendment precludes differences in treatment by the State based upon race"*. And again, having admitted a Negro, the University of Oklahoma must accord him the *"same treatment . . . as students of other races"*.

The important question is what is meant by—*"the same treatment"*?

For all practical purposes this is the equivalent of saying that segregation is unlawful, for all segregation necessarily means that the State is treating persons differently because of race. The ruling opens the way for a broader and more sweeping ruling in the future.



—The Afro-American

An Axe Would Be Quicker

What the Court Said

The Henderson Case

"The denial of dining car service to any passenger by the (rules) subjects him to a prohibitive disadvantage.

"Under the rules, only four Negro passengers may be served at one time and then only at a table reserved for Negroes. Other Negroes who may present themselves are compelled to await a vacancy at that table, although there may be many vacancies elsewhere in the diner.

Whites Also Suffer

"The railroad thus refuses to extend to those passengers the use of its existing and unoccupied facilities. The rules impose a like deprivation upon white passengers whenever more than forty of them seek to be served at the same time and the table reserved for Negroes is vacant . . .

". . . curtains, partitions and signs emphasize the artificiality of a difference in treatment which serves only to call attention to a racial classification of passengers holding identical tickets and using the same public dining faculty."

The McLaurin Case

McLaurin was segregated in the

cafeteria, the library, and classroom. The court held:

"The result is that the appellant is handicapped in his pursuit of effective graduate instruction. Such restrictions impair and inhibit his ability to study, to engage in discussions and exchange of views with other students, and in general to learn his profession.

"State imposed restrictions which produce such inequalities cannot be sustained."

Will Encourage Acceptance

"Removal of the State restrictions will not necessarily abate individuals' and groups' predilections prejudices and choices. But at the very least, the State will not be depriving appellant of the opportunity to secure acceptance by his fellow students on his own merits."

The Sweatt Case

"In terms of numbers of the faculty, variety of courses, and opportunity for specialization, size of the student body, scope of the library, availability of law review and similar activities, the University of Texas law school is superior" to the law school for Negroes.

What Makes a Great Law School?

"What is more important, the University of Texas law school possesses to a far greater degree those qualities which are incapable of objective measurement but which make for greatness in a law school. Such qualities, to name but a few, include reputation of the faculty, experience of the administration, position and influence of the alumni, standing in the community, tradition and prestige."

Practical Considerations Considered

In the SCEF *amicus curiae* brief in the Sweatt case, it was argued that for very practical reasons, neither white nor Negro law students could receive adequate training in a Jim Crow school. This point of view was maintained by the court.

"Moreover, although the law is a highly learned profession, we are well aware that it is an intensely practical one."

Mr. Vinson said the Negro law school "excludes 85% of the population of Texas, and most of the lawyers, witnesses, jurors and others, with whom Mr. Sweatt would deal when he became a member of the Texas bar. With such a substantial and significant segment of society excluded, we cannot conclude that the education offered (Mr. Sweatt) is substantially equal to that which he would receive if admitted to the University of Texas Law School."

Discrimination In Library Service In the Field of Higher Education*

By DR. L. D. REDDICK

I have been asked to make a general statement, based on fact, concerning the nature and extent of discrimination in library resources and services for higher education that exists in the Southern part of the United States. It may be worthwhile to do this for there are those of us who believe that the library is—or at least should be—the center of most college and graduate education and that it is one of the most revealing indexes to the study and research that actually occur on the campus.

It may be a better index even than the number of Ph.D.'s on the faculty. For these scholars—even if they could be persuaded to remain long in a cultural Sahara—would soon become exhausted and empty without a library where they could renew themselves by perusing the basic works of their fields and the latest and best books, periodicals and documents.

Let us see, therefore, how things stand in that part of the American Union that maintains by law and custom a system of racial separation. The figures are not always perfectly comparable for all of the 17 states; however, the inadequacies and disparities are so glaring that it will not be difficult at all to illustrate the gross discrimination that prevails.

"Separate But Equal" Is a Fraud

For example, the white college and university libraries of the Southeast have a total of approximately 11,000,000 volumes while the Negro colleges of the same area have somewhat less than 1,000,000. (Incidentally, Harvard University alone has five times as many books as all of the Negro colleges of the Southeast, combined.)

Again, the average annual library book budget of the Negro college in the Southeast roughly amounts to $15,000 while that of the white college amounts to $200,000. (Incidentally, Yale's annual library budget is $400,000.)

Here again, we have the statistical demonstration that the "separate but equal" slogan is a fraud.

There is but one school in the entire area where Negroes may receive professional training in library service. And that school is on the third-floor of this building (the Atlanta University library).

Bad as these brute facts are, the efforts—real and pretended—that have been made to correct the situation are even more discouraging.

DR. REDDICK

Let me be concrete. For the past 20 years, the needs in library resources and services for Negro college and university students have been public knowledge. Everyone—at least almost everyone — of any social responsibility or appreciation for scholarship would agree that "something ought to be done about it." And yet the historical fact is that during these two decades, aside from the periodic review and deploring of the situation, not much tangible improvement can be recorded.

In the early 1930's when the idea was advanced of building up Nashville, New Orleans, Atlanta and the Chapel Hill-Durham combination in North Carolina and a similar location in Virginia as education centers for the South, there was the bright hope for a while that this program would be a boom to the advancement of learning for all of the people of this part of the American nation.

In time the inevitable question had to be raised: what about the Negro? Was he to be given free access to the bounties of these cultural centers or instead, should there be established two universities in each of these educational centers—one for the whites and another for the blacks? Obviously, there was not enough money in sight to do that.

These were tough questions that everybody knew had to be dealt with somehow but few were prepared to face up to them squarely.

"One problem at a time," said some. "Is it not enough for us to attempt to catch up the cultural lag between the South and the rest of the nation? It is unfair to ask us," they continued, "at the same time, to solve the Negro problem. Anyway, it is not beneficial indirectly to Negroes that whites of the South should be well educated for educa-

*Condensed from a paper read by Dr. Reddick at the First Southwide Conference on Discrimination in Higher Education, Atlanta, Ga., April 8. Dr. Reddick is Library Director at Atlanta University.

tion softens and lessens race prejudice, does it not?"

And so, after the plans were drawn for the building of these educational centers in the South for whites, conferences were called to see what could be done for the poor, unfortunate Negroes.

I believe that the first of these conferences on the library situation was held at Fisk University, November, 1931.

I have the proceedings of that conference in my files and as I reread them, I recall that splendid speeches were made, enthusiasm was high and well-worded resolutions were passed. Nevertheless, it is extremely difficult to trace any tangible results that followed.

One Practical Gain

Ten years later, another conference was called. This time it was held at Atlanta. The one concrete product that could be associated with this gathering was the Atlanta University School of Library Service which had recently been founded and which formed the focus of most of the discussions.

In 1944, there was still another conference; again at Atlanta. It was entitled, "The Library and Graduate Instruction." And yet today the narrow funnel of the inter-library loan remains the chief means whereby students at Negro colleges and universities get their chance to use materials that are possessed by neighboring "white institutions."

As a matter of fact, about the only noteworthy efforts that have been made in the South to establish libraries that would give Negroes, too, cultural centers are the libraries at Fisk and at Atlanta University. These are the largest libraries to which Negroes have free access south of Washington and these have but 100,000 volumes each. They are good libraries. Inch by inch, they compare with the best in the country. The difficulty is they just don't have ENOUGH inches!

Really, the solution to this problem is fairly simple—at least fairly simple to state. First, remove the barriers that prevent all scholars from having full and free access to existing library resources and services; secondly, provide the funds for building up the library facilities and personnel of those institutions that Negroes and the other restricted minorities are now attending.

Some small gains have been made along both these lines. Quietly and almost with a fear that too much publicity will result in retreat, a few of the so-called white universities of the South now permit individual Negro scholars to use their books, documents, manuscripts and reading rooms as freely as anybody else does. But by and large Negro students and teachers in the South are restricted to the libraries of what has been termed "their own institutions."

It is unlikely that Negro scholars in the South will ever get first class university libraries until the barriers of segregation and discrimination are torn down. Then, and only then will there be true equality of educational opportunity; the free intermingling of diverse peoples and cultures; and the consequent free exchange of ideas that characterize all great universities. In that day of the not too distant future, we hope, not only will the white scholar be freed from his lonely isolation but all of us will move closer to a real cultural democracy.

Four Southern Cities Abandon Segregation In Public Library Service

In this issue of THE PATRIOT Dr. Reddick writes about discrimination in library services at the graduate and university level. The same discrimination is to be found in public libraries.

Some time ago I stood in line waiting to be served at the desk of the Public Library. Just in front of me was a Negro woman. When I reached the desk I asked the librarian if they served Negro clients.

"Oh no," she said, "that woman was just a servant returning some books for her employer".

Some Southern cities make no provision at all for library services for Negroes. In most cities, however, there is a separate and inferior "Branch" or Branches for colored persons.

Books are the custodian of mankind's spiritual heritage. To deny a person access to books, and to the treasures they contain, is to make a mockery of our democratic pretentions. It is degrading in the extreme, especially to those who do the denying.

In at least 4 Southern cities segregation has been abandoned. For some years Fort Worth, Texas, has permitted all persons to use the public library without restriction.

Richmond, Virginia and Louisville, Kentucky have operated their public library for two years without segregation.

Chattanooga, Tennessee is the latest city to follow this democratic trend, having opened its library to Negroes in May, 1949.

It is apparent that segregation is maintained now in public libraries merely because of the inertia and indifference of the citizens.

The transition in all of the four cities mentioned above was made without difficulty.

We suggest to the readers of THE SOUTHERN PATRIOT that they initiate a small Committee on Discrimination in Library Service to suggest to the local library board that segregation be abandoned and the services of the public library be made available to everyone without discrimination.

If the board does not take favorable action in a reasonable time, there is little doubt that relief can be had in the courts.

But how much better it would be if this democratic move is made without court action, as in the case of the 4 cities mentioned. Such action would enable everyone to breathe more freely, and would carry us one modest step forward toward our goal of a really free and democratic Southland.